

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1710 be amended to read as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 taxation and commercial law.
- 4 Page 1, between the enacting clause and line 1, begin a new
- 5 paragraph and insert:
- 6 "SECTION 1. IC 6-8.1-8-8 IS AMENDED TO READ AS
- 7 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) After a tax
- 8 warrant becomes a judgment under section 2 of this chapter or a tax
- 9 warrant is returned uncollected to the department under section 3 of
- 10 this chapter, the department may take any of the following actions
- 11 without judicial proceedings:
- 12 (1) The department may levy upon the property of the taxpayer
- 13 that is held by a financial institution by sending a claim to the
- 14 financial institution. Upon receipt of a claim under this
- 15 subdivision, the financial institution shall surrender to the
- 16 department the taxpayer's property. If the taxpayer's property
- 17 exceeds the amount owed to the state by the taxpayer, the
- 18 financial institution shall surrender the taxpayer's property in an
- 19 amount equal to the amount owed. After receiving the
- 20 department's notice of levy, the financial institution is required to
- 21 place a sixty (60) day hold on or restriction on the withdrawal of
- 22 funds the taxpayer has on deposit or subsequently deposits, in an
- 23 amount not to exceed the amount owed.
- 24 (2) The department may garnish the accrued earnings and wages

of a taxpayer by sending a notice to the taxpayer's employer. Upon receipt of a notice under this subdivision, an employer shall garnish the accrued earnings and wages of the taxpayer in an amount equal to the full amount that is subject to garnishment under IC 24-4.5-5. The amount garnished shall be remitted to the department. The employer is entitled to a fee in an amount equal to the fee allowed under IC 24-4.5-5-105(5). However, the fee shall be borne entirely by the taxpayer.

(3) The department may levy upon and sell property and may:

(A) take immediate possession of the property and store it in a secure place; or

(B) leave the property in the custody of the taxpayer; until the day of the sale. The department shall provide notice of the sale in one (1) newspaper, as provided in IC 5-3-1-2. If the property is left in the custody of the taxpayer, the department may require the taxpayer to provide a joint and several delivery bond, in an amount and with a surety acceptable to the department. At any time before the sale, any owner or part owner of the property may redeem the property from the judgment by paying the department the amount of the judgment. The proceeds of the sale shall be applied first to the collection expenses and second to the payment of the delinquent taxes and penalties. Any balance remaining shall be paid to the taxpayer.

(b) A special counsel or collection agency that makes a claim to a financial institution on behalf of the department under subsection (a)(1) or on behalf of a county treasurer under IC 6-1.1-23-10(c)(1) shall submit the following to the financial institution:

(1) Proof of employment or contract with the department under section 4 of this chapter or county treasurer under IC 6-1.1-23-1.5.

(2) Subject to subsection (c), a fee of ten dollars (\$10) for each claim.

(3) A notice of levy issued by the department or county treasurer.

(4) A form approved by the department or county treasurer containing instructions for remitting funds to the special counsel or collection agency making the claim.

(5) A stamped, self-addressed envelope for return of the form submitted under subdivision (4).

(c) A financial institution, special counsel, or collection agency may not assess or pass along a fee under subsection (b)(2) to:

(1) the department;

(2) the county treasurer;

(3) the taxpayer; or

(4) any other individual or unit of government."

Renumber all SECTIONS consecutively.

(Reference is to HB 1710 as printed February 2, 2007.)

Representative Bardon